

Atty Dkt. No.: CLON-035CIP
USSN: 10/006,922

REMARKS

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Formal Matters

Claims 4-5, 8-11, 18-23, 27, 31-39, 50-51, 55-56, and 59-60 are pending after entry of the amendments set forth herein.

Claims 1-13, 18-23, 27, and 31-62 were examined. Claims 1-13, 18-23, 27, and 31-62 were rejected. No claims were allowed.

Claims 1-3, 6-7, 12-13, 40-49, 53-54, 57-58, and 61-62 are canceled without prejudice.

Claims 4, 8, 18, 20, 22, 27, 31 and 32 have been amended. Support for the amendments can be found in the claims as originally filed and throughout the specification at, for example page 25, lines 22-26.

No new matter has been added.

Rejection Under 35 U.S.C. §112, first paragraph (Written Description)

The Office Action has maintained the rejection of Claims 1-13, 18-23, 27, and 31-62 under 35 U.S.C. § 112, first paragraph, for allegedly lacking written description for the claimed genus of nucleic acid fragments and mutants. In view of the remarks made below, this rejection may be withdrawn.

In the spirit of expediting prosecution, the claims have been amended to recite that "said protein has a sequence identity of at least 95% with SEQ ID NO:12". As such, the amendment provides the structure and function for the claimed nucleic acids.

In view of the above and the amendments to the claims, the Applicants respectfully request that this rejection be withdrawn.

Rejection Under 35 U.S.C. §112, first paragraph (Enablement)

The Office Action has maintained the rejection of Claims 1-13, 18-23, 27, and 31-62 under 35 U.S.C. § 112, first paragraph, for allegedly failing to provide enablement for

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the claimed invention. In view of the remarks made below, this rejection may be withdrawn.

As noted above, in the spirit of expediting prosecution and without conceding to the correctness of the rejection, the claims have been amended to remove the objectionable language and to recite that the claimed nucleic acid encode a protein having a sequence identity of at least 95% with SEQ ID NO:12.

In view of the above and the amendments to the claims, the Applicants respectfully request that this rejection be withdrawn.

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CONCLUSION

In view of the above remarks, this application is considered to be in good and proper form for allowance and the Examiner is respectfully requested to pass this application to issuance. If the Examiner finds that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone Bret Field at 650 327 3400.

The Commissioner is hereby authorized to charge any underpayment of fees associated with this communication, including any necessary fees for extensions of time, or credit any overpayment to Deposit Account No. 50-0815.

Respectfully submitted,
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Date: Aug. 25, 2006

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Date: 8.25.06

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